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Federal Judge Doubts Good Faith Of Agencies in Disclosure Dispute

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A Federal judge criticized the Central Intelligence Agency and the Federal Bureau of Investigation yesterday as he refused to dismiss a lawsuit seeking documents about a missing Soviet defector.

The judge, Robert J. Ward of the District Court in Manhattan, asserted in an 11-page decision that the agencies' actions had given him "serious doubts about the competence of the F.B.I. and the C.I.A. to prepare affidavits that accurately summarize the substance of the documents."

Judge Ward issued the decision in a suit filed by Reader's Digest to obtain documents under the Freedom of Information Act about Dr. Nicholas George Shadrin, who has been described as a "double agent" for the United States.

The judge noted that the magazine sought the documents for an article and book on Dr. Shadrin, a Soviet naval officer who defected to the United States in 1959 and became an American citizen. He disappeared, apparently while on a spying mission for the United States, in Vienna six years ago.

Suit Seeks Details of Documents

The magazine's suit seeks a court order requiring the Government agencies to provide a detailed affidavit itemizing the Shadrin documents and explaining why thousands of them were being withheld.

The agencies contend that the Freedom of Information Act does not require them to provide any more of the documents, the judge noted. He said they had submitted several confidential affidavits to him to explain their position.

"This procedure was adopted, with Reader's Digest consent," he said, "because the C.I.A. and the F.B.I. took the position that the Shadrin documents in

question were so sensitive that public dissemination of not only the documents themselves, but even an affidavit describing them, would endanger the national security of the United States."

Judge Ward said the two agencies could withhold documents if they submitted affidavits that specifically described the documents and explained the justification for not disclosing them.

Judge's Confidence Diminishes

"Certain events that have occurred during the course of this action," he continued, "have so diminished the court's confidence in the ability of the F.B.I. and the C.I.A. to prepare proper affidavits that the court is unwilling to rely on affidavits that do not individually review the documents in question."

He said a Government attorney had informed the court that the investigations bureau possessed 750 of the documents, had released none without deletions, had released 220 with deletions and had withheld 520 completely. The attorney said the intelligence agency possessed 3,472, had released 660 without deletions and 195 with deletions and had withheld 2,617.

"However," the judge continued, "it required only a cursory review of the affidavits for the court to determine that counsel for the defendants had grossly overstated the number of documents that had been released in redacted form by the C.I.A."

"The C.I.A. then filed an affidavit that stated that 124 documents previously designated as having been released in redacted form had in fact been withheld in their entirety, meaning that only 71 documents had been released in redacted form by the C.I.A."